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ABSTRACT

This guide enumerates regulations for anyone caring for four or more children at any one time in their home, from families other than their own, in the state of Nebraska. The purpose of the regulations is to protect and promote the health and safety of children in home based child care. The first section of the guide lists specific regulations for Family Child Care Home I (provider's residence, 4-8 children) and II (provider's residence or other site, up to 12 children) including: (1) definitions; (2) provider requirements; (3) background checks; (4) provider training; (5) license capacity and child/staff ratio; (6) facility; (7) fire safety; (8) child health; (9) food preparation and serving; (10) daily activities; (11) infant care; (12) transportation; and (13) overnight care. The second section specifically addresses additional regulations for Family Child Care Home II, including: (1) administration and staffing; (2) public access to licensing files; (3) information released to governmental entities; (4) information not released; (5) child care/preschool provider access to licensing files; (6) restricted information; (7) death of a child; (8) notification of parents when an emergency closing order is issued; (9) lifting of an emergency closing order; (10) registration; (11) ages of infant; (12) license fee; (13) types of licenses; (14) alternative compliance; (15) multiple licenses; (16) voluntary closures/expirations/reapplication; and (17) licensing issues. The final section of the guide provides the legal basis of child care licensing as presented in Nebraska statutes. (SD)

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FAMILY CHILD CARE HOME STANDARDS

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CHILD CARE LICENSING
Nebraska Health and Human Services System
Department of Health and Human Services
Regulation and Licensure
301 Centennial Mall South
Lincoln, NE 68509-5007
(402) 471-2133

PS 027082

Definitions Common to all Child Care/Preschool Programs

These definitions were not included in the Family Child Care Home Standards booklet. Please add these to Page 1.

Household Member - Any person residing in or regularly present in the child care home including children and youth for whom 24-hour care is provided.

Preschooler - A child age 36 months to school-age.

Recreation Camp - Programs or services that are recreational, social, or instructional and that are provided on a time-limited or irregular schedule and are not for the purpose of providing child care services.

Regulation - A requirement or policy having the force and effect of law.

Wading Pool - A portable, above-ground basin filled with 12 or fewer inches of water, and designed for the purpose of wading.

MW:BB8210M

INTRODUCTION

Nebraska law requires that anyone providing child care to four or more children at any one time from families other than that of the provider must obtain a license.

In 1993, a committee consisting of parents, home-based child care providers, and other interested parties was formed to assist the Department in developing regulations which provide for the physical well-being and safety of children in care. This booklet contains a listing of these regulations for providers who operate home-based child care facilities.

Although a child care license is not a guarantee of quality, it indicates that minimum health and safety standards have been met. If you would like more information on child care, please contact:

Nebraska Department of Health and Human Services Regulation and Licensure
Child Care
301 Centennial Mall South
Lincoln, NE 68509-5044
1 (800) 600-1289
(402) 471-2133

COMMON DEFINITIONS

The following definitions apply to all child care/preschool programs:

1. **Agency Representative** - Any person employed by or under contract with the Nebraska Department of Health and Human Services, the Nebraska Department of Health and Human Services Regulation and Licensure, the State Fire Marshal, or their designated agents.

2. **Ages of Children** -

    1. Infant - A child 6 weeks to 18 months of age.
    2. Toddler - A child age 18 months to 36 months.
    3. Preschooler - A child age 36 months to school-age.
    4. School-age - A child who attends grades kindergarten and above.

3. **Child Care** - The provision of care -

    1. To four or more children under age 13 at any one time from families other than that of the provider;
    2. For on the average of less than 12 hours per day;
    3. For compensation, either indirect or direct;
    4. On a regular basis; and
    5. By a person other than their parents/guardians. (Nebraska Revised Statutes, 1991, Section 71-1910)

4. **Child Care Resource Specialist** - A Department staff person responsible for measuring compliance with licensing regulations, and who provides consultation and technical assistance to child care providers.

5. **Crib** - Federally-approved infant equipment with a mattress.

6. **Department** - The Nebraska Department of Health and Human Services Regulation and Licensure.

7. **Family** - Individuals who are not household members and have one or more children enrolled in the child care program.

8. **Fence** - A barrier at least 36 inches in height, and flush with the ground.

9. **Infant** - A child age 6 weeks to 18 months.

10. **Own Children** - The term "own children" includes biological, adoptive, foster children and grandchildren below age eight.

11. **Parent** - The natural parent, adoptive, or step parent(s), guardian, or other legally responsible person.

12. **Premises** - The home/facility, including areas of the home/facility not used for child care/preschool, all attached and all outbuildings, and all areas included within the lot boundaries

13. **Swimming Pool** - Any artificial basin with more than 12 inches of water which has been designed for the purpose of swimming.

14. **Schoolage Child** - A child who attends kindergarten or above.

15. **Toddler** - A child age 18 months to 3 years.

The following definitions are specific to a Family Child Care Home I:

19. **Family Child Care Home I** - A child care operation in the provider's place of residence which serves at least four but not more than eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours.

20. **Overnight Care** - Care provided for children between the hours of 9:00 p.m. and 6:00 a.m.

21. **Primary Provider** - A person age 19 or older responsible for the daily operation of the Family Child Care Home I and to whom the license is issued; also referred to as child care provider.

22. **Registration** - The process by which the child care provider self-certifies that s/he has complied with the rules as contained in the Family Child Care I publication.

23. **Registration Clerk** - The staff person responsible for processing Family Child Care Home I license applications.

24. **Secondary Provider** - A person age 16 or older providing direct care with the primary provider and needed to meet appropriate child/staff ratio as defined in the "Ratio/Capacity for Family Child Care Homes."

25. **Substitute** - A person age 16 or older who provides care in the absence of the primary provider in a Family Child Care Home I.

The following definitions are specific to a Family Child Care Home II:

26. **Family Child Care Home II** - A child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time.

27. **Licensee** - The owner of the child care program and the person(s) to whom the license is issued.

28. **Overnight Care** - Care provided for children between the hours of 9:00 p.m. and 6:00 a.m.

29. **Primary Provider** - A person age 19 or older responsible for the daily operation of the Family Child Care Home II and to whom the license is issued, also referred to as the licensee; OR a person age 19 or older responsible for the daily operation of the Family Child Care Home II program and hired by the licensee.

30. **Secondary Provider** - A person age 19 or older responsible for the daily operation of the Family Child Care Home I and to whom the license is issued; also referred to as child care provider.

31. **Substitute** - A person age 16 or older who provides care in the absence of the primary provider in a Family Child Care Home II.

CHILD CARE PROVIDER REQUIREMENTS

Provider:

1. The child care provider must be at least 19 years of age.

2. The child care provider shall provide a valid Social Security Number as verification of citizenship or lawful resident status in the United States.

3. The child care provider must understand and be familiar with the rules for Family Child Care Homes.

4. The child care provider shall pay an initial license fee and annually thereafter.

5. Parents shall have access to their children at all times that children are in care.

   a. The child care provider shall permit announced and unannounced visits by agency representatives during the hours of operation.
   b. Denial of immediate and unrestricted access to the premises to agency representatives will be basis for suspension or revocation of the license.
   c. Denial of immediate and unrestricted access to the licensed premises to parents will be basis for suspension or revocation of the license.

6. The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance. Any designated substitute shall have the same responsibility for providing adequate and appropriate supervision. Ultimate responsibility for supervision will be with the child care provider.

7. Alcohol or controlled substances as defined in Nebraska Revised Statutes, Section 28-401 through 403 and 28-439, will not be consumed in any area of the home designated for child care during the hours of operation. The provider and/or designated substitute shall not consume or be under the influence of alcohol or controlled substances while providing care. Controlled substances will not be in any area of the child care program.

8. The current license will be prominently posted so that it is clearly visible to parents and others.

9. The child care provider shall ensure that the maximum number of children stated on the license is not exceeded at any time.

10. The child care provider shall not engage in any other employment which interferes with the care of children.

11. A "Children's Record" will be completed before enrollment and kept current for each child in care.

12. The child care provider shall give parents placing a child(ren) in the Family Child Care Home a Department Parent Handbook and retain the receipts on the premises. The receipts will be available for review upon request.

13. The child care provider shall report the following changes to the Department of Health and Human Services Regulation and Licensure: address, household composition, children residing in the home, and days and hours of care.

14. The child care provider shall report to the Department of Health and Human Services Regulation and Licensure within 24 hours or next business day when the following conditions occur within the child care program: the death of any child; any accident to children which requires hospitalization or treatment at a medical facility.

15. The child care provider who has reason to believe child abuse or neglect may be occurring in the family child care home, in the child's home, or elsewhere, shall immediately file a report with the Child Abuse-Neglect Hotline 1-800-652-1999 and/or appropriate local law enforcement agency.

Health Examinations:

16. The child care provider shall submit a completed "Health Information Report," or a report containing all information required in the Health Information Report current within six months, as part of their initial license application. The child care provider shall have a health information report completed every two years after initial licensure and retain on the premises. The Health Information Report, Part B, will be completed by a medical practitioner.

Substitutes and Household Members:

17. When child care is being provided in the residence of the provider, the child care provider shall notify the Department by completing an application when there is a change in household members residing in the home.

18. Substitute providers must be at least 16 years of age. All Family Child Care Home regulations regarding supervision and care of children will apply to substitute(s).

19. The child care provider shall submit the names of regularly identified substitute(s) on the application or an amendment to the application. All regulations regarding background checks will apply to regularly identified substitute(s).

20. Except in emergency situations, the child care provider shall inform parents in advance of the planned use of a substitute provider.

BACKGROUND CHECKS

21. When child care services are being provided in the provider's residence, the child care provider shall submit:

    a. A completed application including the names of all persons residing in the home. Those persons age 13 and older shall be cleared against the Nebraska Child Abuse and Neglect Registry **AND** Nebraska Adult Protective Services Central Registry (age 18).

    b. Felony/misdemeanor statements for all household members age 19 and over, including any crimes for which a juvenile has been adjudicated as an adult.

    c. A completed application and felony/misdemeanor statement when there is a change in household members residing in the home within ten days of the change.

Felony/Misdemeanor Statement:

22. Before the issuance of a license, the child care provider shall submit a "Felony/Misdemeanor Statement," signed and dated by all household members age 19 and older, which includes the following information:

    a. Felony and/or misdemeanor arrests related to crimes against children;
    b. Misdemeanor tickets, other than traffic violations;
    c. Felony and/or misdemeanor convictions;
    d. Any pending criminal charge(s);
    e. Current parole or probation status.

    This statement will include all law enforcement contacts, regardless of prosecution.

23. The child care provider and/or household members do not engage in or have a history of behavior injurious to or which may endanger the health or morals of children.

Registry Checks:

24. The names of child care providers, substitutes and all household members age 13 and older must be checked against the Nebraska Child Abuse and Neglect Central Registry **AND** the Nebraska Adult Protective Services Central Registry (age 18 and older).

25. When child care is being provided in the residence of the provider, any household members age 13 and older appearing as a perpetrator of physical abuse/neglect on the Nebraska Child Abuse and Neglect Central Registry and/or Nebraska Adult Protective Services Central Registry and/or adjudication in adult or juvenile court shall not be on the premises during the hours of operation.

Report of Law Enforcement Record:

26. The child care provider is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves and/or household members when care is provided in the place of residence.

CHILD CARE PROVIDER TRAINING

Pre-Service Training:

27. Before the issuance of a provisional license, the provider shall complete training in the following areas:

    a. Orientation to Child Care Licensure, one hour provided by the Department. This does not apply to the secondary provider of a Family Child Care Home II;
    b. Cardiopulmonary Resuscitation (CPR); and
    c. First Aid.

Provisional Year Training:

28. A child care provider shall obtain a minimum of 12 hours of training. Two hours of CPR and one hour of first aid will be counted in the year that each is taken toward the required training. Training hours obtained in the calendar year prior to provisional licensure will be counted if the training taken includes topic areas listed in #29.

29. Written documentation of **ALL** training will be maintained on the Family Child Care Home premises and available for review upon request.

Annual In-Service Training:

30. Child care providers shall obtain a minimum of 12 clock hours of in-service training annually. Secondary providers who work 20 hours or less will be required to complete six hours of training.

    Child care providers licensed before implementation of these regulations shall meet the following requirements:

    Calandar Year 1997 - 10 clock hours of In-Service Training*
    Calendar Year 1998 - 12 clock hours of In-Service Training*

*Secondary providers who work 20 hours of less will be required to complete half of the clock hours listed.

In-service training will include but is not limited to the following topic areas:

a. Safe Environment
b. Healthy Environment
c. Learning Environment
d. Physical Development
e. Cognitive Learning
f. Communication
g. Creative Learning
h. Self-Esteem
i. Social Development
j. Guidance
k. Family Relationships
l. Program Management
m. Professionalism

31. Written documentation of annual in-service training will be maintained on the Family Child Care Home premises and available for review upon request.

Cardiopulmonary Resuscitation (CPR) and First Aid Training:

32. The child care provider shall complete certified Cardiopulmonary Resuscitation (CPR) and First Aid training:

    a. Cardiopulmonary Resuscitation (CPR) Training will be certified through one of the following: American Heart Association; American Red Cross; National Safety Council; or Emergency Medical Planning America (Medic First Aid).
    b. The child care provider shall maintain current CPR and First Aid certification as long as the provider is licensed.
    c. The CPR card and First Aid certificate will be available for review upon request.
    d. Two hours of CPR and one hour of first aid will be counted in the year that each is taken toward the required in-service training.

LICENSE CAPACITY AND CHILD/STAFF RATIO

33. Child/staff ratios and license capacity includes the provider's own children below age eight.

License Capacity:

34. The maximum license capacity for a Family Child Care Home I is 8 children. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours.

35. The maximum license capacity for a Family Child Care Home II is 12 children.

36. The maximum license capacity will be determined by Department staff based on actual available space in the home and the number authorized by the State Fire Marshal.

Child/Staff Ratio:

37. The child care provider shall maintain compliance with the child/staff ratios as indicated below. The following chart describes child/staff ratio for Family Child Care Homes:

RATIO/CAPACITY FOR FAMILY CHILD CARE HOMES

Age Groups and # of Children	Family Child Care Home I	Family Child Care Home II
	Number of Providers Required:	Number of Providers Required:
INFANT ONLY:		
4	1	1
5-8	2	2
9-12	N/A	3
MIXED AGE:		
8	1	1
9-10	1*	1*
9-12	N/A	2
SCHOOL-AGE ONLY:		
9-10	1	1
11-12	N/A	1**

38. **Infant Only:** Family Child Care Home I and II providers serving infants only may exclude their own school-age children in the ratio/capacity.

39. **Mixed Age:** Family Child Care Home I and II providers serving mixed ages may provide care for no more than three infants (under 18 months) per adult as long as no more than two infants per adult are under 12 months of age. In the event of multiple births, an alternative compliance may be considered.

40. *Family Child Care Home I and II providers serving mixed ages may provide care for no more than two additional school-age children during non-school hours as long as no more than two children are under 18 months of age.

41. **School-Age:** **Family Child Care Home II providers may care for up to 12 school-age children; however, their own children under age 8 must be counted in the child/staff ratio.

FACILITY

Overall:

42. The child care provider shall ensure that at least 35 square feet of indoor space per child (excluding areas not designated for child care) is available.

43. The child care provider shall ensure that at least 50 square feet of outdoor play space per child is available.

44. The child care provider shall ensure that all cleaning agents and poisons are kept in locked storage.

45. The child care provider shall ensure that all rooms used for child care are clean and dry.

46. The child care provider shall ensure that all floors, walls, ceilings, and furniture are clean and in good repair.

47. The facility must be free of exposed lead-based paint surfaces which are flaking, peeling, or chipped. When lead-based paint is determined to be present in a condition listed above, a referral will be made to the Nebraska Department of Health and Human Services Regulation and Licensure or local Authority for consultation or proper abatement procedures. Failure to take appropriate action to abate the lead-based paint within a reasonable time, not to exceed six months, will result in the initiation of revocation/suspension action.

48. The child care provider shall ensure that an operable telephone is available on the premises of the child care facility. Emergency phone numbers, including fire, rescue, police (or 911 or local equivalent), and Poison Control will be prominently posted.

49. The child care provider shall ensure that play materials, equipment, and furnishings are easily cleanable, kept clean and in good repair, have no sharp edges, and have no rusty or loose parts.

50. The child care provider shall ensure that toys and objects with a diameter of less than one inch or less than one and one-half inches in length are used only under provider supervision with children who are below three years of age.

51. The child care provider shall ensure that buildings that are used for child care are constructed to prevent rodents from entering.

52. The child care provider shall ensure that doors opening to the outside are self-closing (except for sliding doors), and all windows used for ventilation are screened.

53. The child care provider shall ensure that heating, ventilating, and lighting facilities are adequate for the protection of the health of children.

54. The child care provider shall ensure that electrical outlets within the reach of children are covered with safety caps, ground fault interrupters, or have safety outlets installed.

55. Tornado drills will be practiced with the children a minimum of four times per year from March through September. A written tornado safety plan and documentation of drills is available for review upon request.

56. All garbage and refuse will be collected, stored, and disposed of in a manner which does not attract rodents or insects.

57. The grounds will be kept neat and clean and free from rodents and accident hazards.

58. Accidents hazards such as flammable materials, deep pools, and farm and lawn equipment will be inaccessible. Potential accident hazards such as uncovered wells, broken glass, boards containing nails and other debris will be eliminated.

59. Barnyard animals and/or fowl will not be allowed in the outdoor play area.

60. Smoking will be prohibited in all areas of the home designated for child care during the hours of operation.

61. The child care provider shall inform parents of all enrolled children if any household member, including the provider, smokes in the home. This information will be provided to parents before accepting a child into care.

Bathrooms:

62. The child care provider shall ensure that a toilet which is conveniently located, clean, and is good repair in available to the children.

63. The child care provider shall ensure that a sink with hot and cold running water and soap is available.

64. The child care provider shall ensure that sinks and toilets are of a suitable height for children, or a safe stepstool or platform is provided.

Water Supply:

65. The child care provider shall ensure that no common drinking container is used. Drinking water is provided by sanitary drinking fountains, or individual or disposable cups.

65. The child care provider shall ensure that the water temperature of the bathroom sink is at least 100 degrees Fahrenheit, but no greater than 120 degrees Fahrenheit.

67. The child care provider shall ensure that drinking water from a private water supply system meets current standards set by the Nebraska Department of Health and Human Services Regulation and Licensure as they may be amended from time to time. Water sample test verification will be submitted annually.

68. The child care provider shall ensure that there is no open sewage discharge is on the child care premises. When the Department determines that there may be open sewage present on the child care premises, a referral will be made to the Nebraska Department of Environmental Quality for an inspection.

Personal Care Items:

69. Common use of grooming items is prohibited.

70. The child care provider shall ensure that individual towels and washcloths and facilities for their storage are available. Common use of towels and washcloths is prohibited.

71. The child care provider shall ensure that waterproof containers are provided for storing soiled and/or wet clothing.

Water Safety:

72. The child care provider shall ensure that above-ground and in-ground swimming pools are enclosed with a fence that is at least 4 feet high and the fence flush with the ground.

73. The child care provider shall ensure that above-ground pools have non-climbable side walls that are 4 foot high or are enclosed with an approved fence as described above.

74. The child care provider shall ensure that when above-ground and in-ground pools are covered, this cover will meet or exceed the standards of the American Society for Testing and Materials.

75. If children are allowed to use above-ground or in-ground swimming pools, the following conditions will be met:

    a. Written permission from parents is available for review.
    b. Equipment needed to rescue a child or adult is readily accessible.
    c. The child care provider shall comply with all Nebraska Department of Health and Human Services Regulation and Licensure requirements regarding swimming pools.

76. The child care provider shall accompany and directly supervise the children during swimming and wading activities.

77. The following ratios will be maintained with the use of above-ground or in-ground pools on the child care premises:

	Children	Provider/Secondary Provider
Infants	1	1
Toddlers	2	1
Preschoolers	4	1
School-age	6	1

78. If the depth of the water is over four feet, a person who has satisfactorily completed an approved lifesaving course must be on duty at all times the pool is in use.

79. Wading pools must be drained daily and inaccessible to children when not in use.

Prohibited Water Sources:

80. The child care provider shall not allow children to use:

    a. Natural bodies of water;
    b. Hot tubs, spas, or saunas; and/or
    c. Livestock tanks.

Animals:

81. If there are animals on the premises, the child care provider shall ensure that -

    a. All household pets are vaccinated. Proof of current vaccination as documented by a veterinary clinic will be kept on the child care premises.
    b. All animal waste will be immediately removed from the children's areas and properly disposed of.

82. The child care provider shall ensure that no animals are allowed in the food preparation, food storage, and serving areas during food preparation and serving times.

83. The child care provider shall ensure that animals which have bitten or attacked a person without provocation are not allowed on the child care premises.

84. The child care provider shall ensure that exotic or unusual animals are not on the child care premises during the hours of care.

Weapons:

85. The child care provider shall ensure that firearms, other potentially hazardous weapons, weapon accessories, and ammunition are kept in locked storage. Firearms will be unloaded, and ammunition will be stored separately from firearms.

Fences:

86. If there are unsafe areas such as drainage ditches, wells, holes, heavy machinery, railroad tracks, bodies of water, heavy street traffic, or other hazards in or near the outdoor play area, a fence is required.

87. The child care provider must accompany and supervise children under age four in play areas not requiring a fence. Children age four and older must be supervised at all times.

88. The child care provider shall accompany and supervise children under age two in fenced play areas. Children age two and older must be supervised at all times in the fenced play area.

FIRE SAFETY

Fire Safety rules are contained in regulations adopted by the State Fire Marshal, specifically, the National Fire Protection Association's Life Safety Code. Local fire regulations may be more restrictive. Fire code requirements differ depending on the number of children cared for. The following is a description of these regulations:

89. The child care provider shall ensure that a Fire Safety approval is maintained for the child care facility for the license to be effective.

90. There will be at least two unblocked exits approved by the State Fire Marshal from every floor on which child care is provided.

91. Furnaces, fireplaces, wood-burning stoves, and other heaters are inaccessible to children when in use.

92. All storage areas are free of excessive combustibles or highly flammable materials.

93. Bathroom and closet doors are designed so they can be unlocked from the outside.

94. Fire drills will be practiced with the children a minimum of six times per year in alternating months. A written evacuation plan and documentation of drills is available for review upon request.

95. Operating, properly mounted smoke detection equipment will be required in child care areas. Smoke detection equipment will be U.L. (Underwriters Laboratories) listed or bear the approval of another major testing laboratory such as Factory Mutual.

By the authority found in Nebraska Revised Statutes, Section 81-502, the Fire Marshal has the power to ask for additional requirements for specially constructed facilities. In accordance with Nebraska Revised Statutes, Section 81-505.01, the Nebraska State Fire Marshal will charge an inspection fee for State Licensure Inspections in health care, liquor, mobile trailer courts, and child care facilities. The State Fire Marshal may be contacted for the fee schedule: (402) 471-2027.

CHILD HEALTH

First Aid Kit:

96. The child care provider shall have a first aid kit, including the following supplies: tweezers, fever thermometer, soap, band-aids, gauze, tape, scissors, disposable latex gloves. These supplies will be inaccessible to children.

Medications:

97. The child care provider shall administer oral or topical medication, both prescription and non-prescription, only with prior written permission **AND** written instructions from a parent. Medication will be in the original container, stored according to instructions, clearly labeled for a named child, and returned to the parent when no longer needed. Dosage will not exceed that which is printed on the label.

98. The child care provider shall ensure that all prescription and over-the-counter medications are kept in locked storage. Separate locked storage will be provided for medications requiring refrigeration.

99. Over-the-counter lip balm, petroleum jelly, suntan lotion, and diaper ointment will be kept out of reach of children.

100. The child care provider shall maintain a record as to the time and amount of medication given or applied.

Outbreak of Communicable Diseases:

101. The child care provider shall notify parents of all enrolled children of a case of any communicable disease on list "A" on the same day the provider is informed or observes the outbreak. (See Compliance Guide for list "A" of communicable diseases.) Proper notification of parents will include:

    a. Notification to parents of children in attendance.
    b. Phone notification to parents of enrolled children who are not in attendance on that day.
    c. Posting notice of the outbreak in a conspicuous place.

102. The child care provider shall notify the local health authority by phone of a case of the communicable disease on list "B" on the same day the provider is informed or observes the illness. (See Compliance Guide for list "B" of serious communicable diseases.) The child care provider shall maintain a record of the date and time of such notifications which will be available for review upon request.

Isolation of Children Who are Ill:

103. In the case of more severe illness, the child care provider shall:

    a. Separate the child from other children;
    b. Properly attend to the child's needs until arrangements are made for return to the child's home.

Immunizations:

104. The child care provider shall maintain copies of children's immunization records. Copies will be available for review upon request.

105. The child care provider shall comply with all Nebraska Department of Health and Human Services requirements regarding immunization status of all enrolled children.

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FOOD PREPARATION AND SERVING

Food Preparation Area:

106. The child care provider shall ensure that all food preparation, serving and storage areas, equipment, and utensils are easily cleanable and in good repair.

107. The child care provider shall ensure that dishes and utensils will be properly cleaned, rinsed, sanitized, and air-dried.

108. The child care provider shall ensure that all perishable foods are stored in a covered container in an operating refrigerator with a maximum temperature of 40 degrees.

109. The child care provider shall ensure that deep freezers which cannot be opened from the inside are locked or stored in a locked room.

110. The child care provider shall ensure that no home-canned foods are served to children in care.

111. The child care provider shall ensure that only pasteurized grade A milk and milk products are served to children. Dry milk and milk products are made from pasteurized milk and milk products.

Meals and Snacks:

112. The child care provider shall serve the following number of meals and snacks when children are present:

    a. 2 1/2 to 4 hours - one snack;
    b. 4 to 8 hours - one snack and one meal;
    c. 8 to 10 hours - two snacks and one meal; and
    d. 10 or more hours - two snacks and two meals.

113. Each meal served includes servings from each of the food components (fluid milk; meat or meat alternates; vegetables and/or fruits; and bread or bread alternates). (Breakfast does not need to include a meat or meat alternative.)

114. Each snack served includes a serving from two of the previously listed food groups.

115. The child care provider shall wash all fresh or raw fruits and vegetables thoroughly with water before use.

116. The child care provider shall provide weekly menus to parents upon request.

DAILY ACTIVITIES

Indoor/Outdoor Play:

117. The child care provider shall have knowledge of where each child in care is at all times.

118. Enough age-appropriate play materials are available so that, at any one time, each child can play individually.

119. The child care provider shall obtain written permission from parents to allow school-age children to engage in activities outside the child care home without direct provider supervision.

Naps and Rest Periods:

120. A regular rest period is made available for children as agreed upon between parent and child care provider.

121. The child care provider shall have clean beds, cribs, mats, washable sleeping bags, sofas, or cots for napping for each child over 12 months of age. The top level of bunk beds is not used for children below 5 years of age. Futons will not be used for infants under 13 months of age; where allowed, futons will conform to the definition in the Compliance Guide. Waterbeds are not used for children under 36 months of age.

Discipline:

122. The child care provider and/or his/her designated substitute is prohibited from using the following as a means of punishment:

    a. Spanking, slapping, punching, shaking, striking with any inanimate object, handling roughly, or biting;
    b. Denying food or forced napping;
    c. Subjection to derogatory remarks about themselves or their family, abusive or profane language, yelling or screaming, or threats of physical punishment.

    The child care provider shall not punish any child for toilet training accidents.

    While children are in care and when parents are not present, the responsibility for discipline lies **ONLY** with the child care provider or designated substitute.

Diapering and Toileting:

123. The child care provider shall change children's diapers when needed.

123. The child care provider shall use individual washcloths, towels, or disposable towelettes to cleanse children during diapering.

125. The child care provider shall wash his/her hands thoroughly with soap and water after changing the diaper of each child and after helping children toilet.

126. The child care provider shall ensure that soiled diapers are properly disposed of and/or stored in airtight containers.

127. Potty chairs are not used or stored in eating and playing areas.

128. When toilet training is conducted in the child care home, toilet training is carried out in a manner agreed upon by the child care provider and parent.

INFANT CARE

In addition to complying with all other rules, a child care provider who provides care for any infant shall comply with the following rules:

1. The child care provider shall meet the emotional and physical needs of infants consistently and promptly. This includes:

   a. Talking to, playing with, holding and rocking infants, and providing them with the opportunity to explore outside of their cribs and/or playpens.
   b. Immediately investigating the cries of infants.

2. The child care provider shall feed infants according to a plan agreed upon by the parent(s) and the provider.

3. The child care provider shall ensure that prepared formula is labeled with the appropriate child's name and stored in the refrigerator. Unused (prepared) formula is discarded after 48 hours.

4. The child care provider shall hold infants under six months of age and those who are not yet able to hold their own bottles during bottle feeding.

5. The child care provider shall not prop bottles and shall remove bottles from sleeping infants.

6. Infants who are capable of feeding themselves, but cannot sit in child-sized chairs at child-sized tables, must be seated in high chairs with three point safety straps.

7. The child care provider shall ensure that only federally approved cribs and/or playpens are used for infants.

   a. Drop-side latches will securely hold sides in the raised position.
   b. Infants are not left unattended in cribs with the drop-side lowered.
   c. Bumper pads will be provided for each crib in which a child under six months sleeps.

8. Cots, waterbeds, pillows, mats, futons, or cushions are not used for infants under 13 months of age.

TRANSPORTATION

When transporting children in care, the child care provider shall comply with the following requirements.

1. The child care provider shall possess a current and valid driver's license as verified by the Nebraska Department of Motor Vehicles. In lieu of the child care provider, the person providing transportation shall possess a current and valid driver's license.

2. The child care provider shall obtain parent's written permission to transport children.

3. The child care provider shall maintain the adult-child ratio when transporting children.

4. The child care provider shall not exceed the seating capacity of the vehicle, as indicated by the vehicle manufacturer.

5. The child care provider shall ensure that all doors are locked when the vehicle is in motion.

6. The child care provider shall use an age appropriate and individual safety restraint for each child transported. Failure to properly restrain children may result in revocation.

    a. Nebraska law requires that all children under four years of age **OR** under forty pounds be correctly secured in a federally approved child safety seat.

    b. All children ages four and above **OR** children weighing forty pounds or more must be secured in a safety belt or federally approved child safety seat restraints.

    c. Restraints are not required for children transported by public transportation or school bus.

OVERNIGHT CARE

In addition to the other regulations, child care providers who offer overnight care shall comply with the following rules.

1. The child care provider shall provide clean cots or beds for each child over twelve months of age, fitted with a firm, waterproof mattress. The top level of bunk beds may not be used for children below five years of age.

2. Infants under 13 months of age shall sleep only in federally approved cribs and/or playpens. Cots, pillows, mats, futons, or cushions will not be used for infants under 13 months of age. Waterbeds will not be used for children under 36 months of age.

3. The child care provider shall be awake and alert to the needs of children until all children are asleep.

4. The child care provider shall sleep within hearing distance of sleeping children.

5. Operating, properly mounted, smoke detection equipment will be available on all floors wherein children sleep. Wired smoke detection equipment is U.L. (Underwriters Laboratories) approved.

6. The child care provider will give each child a shower, tub, or sponge bath in a manner agreed upon between the parent and the provider.

FAMILY CHILD CARE HOME II

In addition to complying with the Family Child Care Home I regulations, facilities serving nine through twelve children (Family Child Care Home II), will also comply with the following regulations.

Administration and Staffing:

1. The primary provider shall ensure that current fire safety and sanitation approval is maintained for the license to be effective.

2. The primary provider shall maintain the records for the secondary provider on the premises and available for review upon request. The records will include but are not limited to -

   a. Name, address, Social Security number, and phone number.
   b. Within 30 days of hiring and every two years thereafter, the secondary provider shall provide a Health Information Report (or a report containing all information required in the Health Information Report) current within six months of the license application or hiring. The Health Information Report, Part B, will be completed by a medical practitioner.
   c. Date of hire.
   d. Signed and dated Felony/Misdemeanor Statement.

All regulations regarding background checks will apply to secondary providers, volunteers and substitutes.

3. Secondary providers must be at least 16 years of age.

4. Before hiring, the primary provider shall obtain at least three non-relative references for the secondary provider. One of these references must be from a previous child care employer, if applicable. A written record of having contacted these references will be maintained on the premises and available for review upon request.

5. The primary provider or a secondary provider at least 16 years of age must be present and on duty whenever children are in care.

POLICIES

Public Access to Licensing Files:

Department staff shall release information regarding the name of the child care provider, address, telephone number, type of license, license capacity, hours and days of care, ages of children served, and license effective dates upon verbal or written request.

The following forms, reports, correspondence and documents will be released upon either verbal or written request:

Application/Affidavit
Alternative Compliance Request
Registration Referral Form - Fire Safety Inspection/Fire Marshal
Registration Referral Form - Sanitation Inspection/Department of Health and Human Services Regulation and Licensure
Rules Compliance Checklist
Closure Form
Noncompliance Report/Compliance Review
Fire Safety Inspection Reports and Correspondence
Sanitation Inspection Reports and Correspondence
Letters initiating revocation, denial, suspension, extension of a license or probationary license status
Licensing Agreements
Emergency Closing Orders
Order of License Reinstatement
Finding and Order resulting from an appeal hearing
Declaratory Ruling resulting from a failure to appeal

Information Released to Other Governmental Entities:

Copies of the following documents may be sent to other governmental entities:

Warning letters
Noncompliance Reports/Compliance Reviews
Extensions of provisional licenses
Issuances of probationary licenses
Letters initiating action to deny, suspend, revoke, extend a license or place on probationary license status
Emergency Closing Orders

If the above information includes any reference to specific names of children, their parents, Child Protective Services reports or records or Law Enforcement investigative reports, these references will be deleted before release.

Information Not Released:

The following information documents or forms will **NOT** be released:

Names, address and phone numbers of complainants
Names of enrolled children and their parents/guardians
Child Protective Services reports or records, Adult Protective Services reports or records, Nebraska Child Abuse and Neglect Central Registry and Nebraska Adult Protective Services Central Registry information or Law Enforcement investigative reports
Felony/Misdemeanor Statements
Reference Release Statements
Reference Letters

Enrollment/Attendance Form
Internal Department correspondence
Investigative reports and notes
Documentation regarding unlicensed care investigations
Medical Records/Health Information Reports

Department staff shall not release information until the licensee has received the information or a reasonable effort has been made to provide the licensee with the information.

Requested information will be available five working days after the request is received.

If a determination is made to deny a request for information and the requesting party objects or further insists on production, the licensing staff shall consult with the Legal Services for assistance in preparation of a written response as required by Nebraska Revised Statutes, Section 84-712.04.

Child Care/Preschool Provider Access to Licensing Files:

Child care/preschool providers must receive a statement describing noncompliance(s) and/or complaint(s) specific to child care licensing regulations during the licensing visit.

Child care/preschool providers must have the opportunity to provide written comment about all noncompliances and complaints in the following ways:

1. The child care/preschool provider may indicate comments and/or clarification on the agency documentation at the time of the visit.
2. The child care/preschool provider may submit a written letter or memo to the appropriate Department staff. Department staff shall attach the letter or memo to the noncompliance documentation and forward to the file.
3. A written confirmation will be sent to the provider indicating that the information has been placed in the file.

Providers shall have the right to review their child care program licensing file that is retained in the Department Central Office, Lincoln, Nebraska. Requested information will be available for review in Lincoln Central Office, 301 Centennial Mall South, Lincoln, Nebraska, from 9:00 a.m. to 4:00 p.m. on weekdays except for state holidays, ten business days after the request is received.

Restricted Information:

All information contained in this file may be reviewed with the exception of the following:

1. Any information that identifies person(s) who made complaints or alleged noncompliance with regulations;
2. Child Protective Services reports and records, Nebraska Child Abuse and Neglect Central Registry information, Adult Protective Services reports and records, Nebraska Adult Protective Services Central Registry information and law enforcement investigative reports;
3. Reference letters;
4. Internal Department correspondence;
5. Investigative reports and notes; and
6. Documentation regarding unlicensed care investigations.

Death of a Child:

Upon notification of a death of a child attending any child care/preschool facility, Child Protective Services must be notified, and Department staff shall determine if the child care/preschool facility is licensed. If the child care/preschool program is licensed, a clearance with the Nebraska Child Abuse and Neglect Central Registry will be completed for the following individuals: all caregivers, household members, other involved parties, and the deceased child. A review of relevant licensing files, if applicable, will also be completed by Department staff.

If the Nebraska Child Abuse and Neglect Central Registry and/or file indicate possible concerns, Department staff shall inform the appropriate Child Protective Services supervisor and local law enforcement agency by telephone followed by written notice. Documentation of contact will be placed in the licensing file if the incident occurred in a licensed facility. The documentation will be filed separately if the incident occurred in an unlicensed facility.

One of the following sources may be used when obtaining verification of such incidents:

1. Law enforcement reports and County Attorney records, including Coroner's report
2. Death Certificate via Department of Health, Vital Statistics

Should documentation reveal that death is attributed to S.I.D.S. (Sudden Infant Death Syndrome), that information will be filed. A telephone call offering support and resource information may be made by Department staff.

Should documentation reveal that the death was of a nature other than S.I.D.S. and was not the result of any law violation, that information will be filed. A telephone call offering support and resource information may be made by staff.

Should documentation reveal that the death was crime-related, the information will be reviewed to determine noncompliance with licensing regulations and a negative action will be initiated.

Notification of Parents When an Emergency Closing Order is Issued:

Whenever the Director of the Department of Health and Human Services Regulation and Licensure finds that an emergency exists requiring immediate action to protect the physical well-being and safety of children in a child care/preschool program, the Director may issue an "Emergency Closing Order" declaring the existence of an emergency and requiring that action be taken as the Director deems necessary. Any licensed child care/preschool provider to whom the Emergency Closing Order is directed shall comply immediately.

Department staff shall inform the parents of enrolled children of the issuance of the Emergency Closing Order by telephone and in writing.

Parents and appropriate Department staff shall be informed of the following:

1. An Emergency Closing Order was issued by the Director of the Department of Health and Human Services Regulation and Licensure to protect the physical well-being and safety of the children in care at the facility;
2. The date and time the order is effective;
3. A general description of the circumstances which endangered the health and safety of the children;
4. An explanation of how parents may obtain information regarding the facility's compliance with licensing standards.
5. The names and telephone numbers of resources that could assist parents in locating another provider, if necessary; and
6. The name and work number of the specialist's supervisor.

Appropriate Department staff shall be notified when a decision has been made to issue an Emergency Closing Order and when the Order has been delivered.

Lifting of an Emergency Closing Order:

If an Emergency Closing Order is lifted, written notice will be immediately provided.

The Department shall inform the parents of enrolled children in writing when an Emergency Closing is lifted.

Registration:

Family Child Care Home I providers will no longer be REQUIRED to visit your local office in order to register, nor will you be required to have the forms notarized. The application process is done by mail.

Family Child Care Home II providers will continue to be licensed by Child Care Resource Specialists.

The maximum capacity for a Family Child Care Home I license is 10; however, providers may license for less than 10 if you choose.

Ages of Infant:

The age of infant is defined as a child 6 weeks to 18 months of age. If you wish to care for a child younger than 6 weeks of age, you must complete an Alternative Compliance and have the parent of the child provide you with a physician's statement indicating that child may be placed in a child care setting.

License Fee:

There is a $25.00 fee charged for the issuance of a provisional or operating license and yearly thereafter. This is a nonrefundable fee; however, if you are not issued a license for one reason or another, the fee can be refunded to you upon your request. Fire fees are determined by the State Fire Marshal and/or delegated authority. Fees will be accepted in the form of a check or money order only. Cash will not be accepted.

Types of Licenses:

All licenses are effective only for the address shown on the license and are as follows:

Provisional License: This license will be issued to all newly licensed providers for the first year of operation. This license may be extended for one six-month period.

Operating License: This is the standard non-expiring license issued to providers who have been licensed for more than one year and are in full compliance with all regulations. Ninety days prior to the expiration of your provisional license, you will receive application materials. These will need to be completed in order for you to receive an Operating License. You will also be required to pay a licensing fee of $25.00.

Probationary License Status: This is a status that is determined when a provider is found to be out of compliance with regulation(s) and has a corrective action plan approved by the Department that specifies how compliance will be achieved in no more than six months. This status cannot be renewed or extended.

Alternative Compliances:

The Department may grant alternative compliance with regulations if the Department determines that the alternative offers equal protection for children and meets the intent of the regulation for which alternative compliance is sought. Alternative compliances are not intended to waive or provide exemptions from regulations. Alternative compliance will NOT be granted for:

1. Exceeding the license capacity;
2. Staffing;
3. Transportation;
4. Supervision;
5. Fire safety inspection disapprovals; and/or
6. Any regulation for which denial or suspension/revocation action(s) has been taken.

Alternative compliances will be time limited but may not exceed the current license period.

Multiple Licenses:

Multiple licenses may be issued to the same provider; however, all appropriate regulations must be met and all appropriate inspections completed. Multiple licenses or approvals may be granted for different types of programs at the same location; i.e., for child care, foster care, adult or elder care. In addition to determining the child care license capacity per program, the Fire Marshal shall determine the maximum number of children, youth, and/or vulnerable adults that can be on the premises at any one time.

An individual may hold a license for more than one child care program in different locations as long as there is an on-site primary provider/ director who meets required regulations and all other staffing requirements are met.

A FAMILY CHILD CARE HOME I license will be issued ONLY for the PROVIDER'S PLACE OF RESIDENCE.

Voluntary Closures/Expirations/Reapplication:

Providers with a Provisional License who voluntarily close and no negative actions are pending shall:

a. Reapply for a Provisional License. The previous license will not be reactivated;
b. Not have to pay fire inspection fees if the fire/safety inspection was approved and still effective;
c. Complete a continuous year with a Provisional License before issuance of an Operating License.

Providers with a Provisional License whose license expires:

a. May apply for an operating license up to 60 days after expiration when the Provisional License period of one year has been completed;
b. Shall apply for a Provisional License if the application submitted more than 60 days after expiration;
c. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.

Providers with an Operating License who voluntarily close and no negative actions are pending:

a. May reapply for an operating license up to 60 days after expiration if a continuous year of licensing has occurred;
b. May reapply for an operating license if licensed for three years or more within the past five years;
c. Shall reapply for a Provisional License if the application is submitted more than 60 days after closure and if not licensed for three consecuttive years or more within the past.
d. Shall not have to pay fire inspection fees if the fire/safety inspection was approved and still effective.

Providers with an Operating License or Provisional License whose license has been revoked:

a. Shall not be issued a license for two years from the Finding and Order or Declaratory Ruling;
b. After two years, shall apply for a Provisional License.

Amended applications will not be processed whenever a negative license action is pending.

License effective dates will not be backdated unless due to agency error.

A license fee will be required any time a provider reapplies.

Reapplication After Suspension or Revocation:

A person who has had a license suspended or revoked shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is issued a state license.

A person who has had a license suspended or revoked shall not provide care to three or fewer children until the person is issued a state license.

A person who has had his/her child care license suspended or revoked is not eligible to reapply for any type of child care license for a period of two years from the date of the Finding and Order issued by the Nebraska Department of Health and Human Services Regulation and Licensure if an administrative hearing was held. If a Declaratory Order or an Emergency Closing Order was issued by the Nebraska Department of Health and Human Services Regulation and Licensure and no appeal was filed, a person would not be eligible to reapply for any type of child care license for a period of two years from the date of the Declaratory Order or Emergency Closing Order. If an application is received during this two-year period, the application will be returned to the applicant with relevant documentation indicating that they are ineligible to reapply.

There is no right to an Administrative Appeal for any person determined by the Nebraska Department of Health and Human Services Regulation and Licensure to be ineligible to reapply for any type of child care license under the above circumstances.

LEGAL BASIS - NEBRASKA STATUTES (REVISED)
ARTICLE 19 - CHILD CARE LICENSING

71-1908. Legislative findings.
71-1909. Sections, purpose.
71-1910. Terms, defined.
71-1911. Child care program; license; fee; issuance; renewal, denial.
71-1911.01. Display of License.
71-1912. Department; establish standards; investigation; inspection.
71-1913. Fire and health inspections.
71-1913.01. Immunization requirements; record; report.
71-1913.02. Immunization reports; audit, deficiencies; departments; duties.
71-1913.03. Immunization; department; adopt rules and regulations.
71-1914. Department; serve as coordinating agency; local rules and regulations; report of violation.
71-1915. Violations; charges; content; notice; hearing; penalty; emergency powers; injunction.
71-1916. Department; administrative procedures.
71-1917. Annual report; contents.
71-1918. Existing rules and regulations; effective; when.

71-1908. Legislative Findings. The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of providers of all such programs to ensure that providers are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on providers of programs and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

71-1909. Sections, Purpose.

(1) The purposes of sections 71-1908 to 71-1917 are to provide:

(a) Statewide licensing of providers of child care programs; and

(b) The Department of Health and Human Services with authority to coordinate the imposition of standards on providers of programs.

(2) It is the intent of the Legislature that the licensing and regulation of programs under such sections exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of children in such programs.

71-1910. Terms, Defined. For purposes of sections 71-1908 to 71-1917, unless the context otherwise requires:

(1) Department shall mean the Department of Health and Human Services;

(2) Director shall mean the Director of Health and Human Services; and

(3) Program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-444, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age care program operated or contracted by a public school district.

71-1911. Child Care Program; Licenses when required; Fee; Issuance; Renewal, Denial.

(1) A person may furnish a program for three or less children without having a license issued by the Department, except that if such person has had a license issued pursuant to subsection (2) of this section and such license has been suspended or revoked pursuant to section 71-1915, such person shall not furnish a program for three or less children until the person is licensed pursuant to this section.

(2) No person shall furnish or offer to furnish a program for four or more children under his or her direct supervision, care and control at any one time from families other than that of the provider without having in full force and effect a written license issued by the Department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the Department. The license may be a provisional license, a probationary license, or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs. If the license of a person is suspended or revoked pursuant to section 71-1915, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section. Any provider not covered by sections 71-1908 to 71-1917 may voluntarily subject himself, herself, or itself to coverage.

(3) A provisional license shall be issued to all applicants following the completion of preservice orientation training approved or delivered by the Department for the first year of operation. At the end of one year of operation, the Department shall either issue an operating license or renew or refuse to renew the provisional license. The provisional license may be renewed once if the Department determines that:

(a) A licensee is unable to comply with all license requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the Department which is to be completed within the renewal period.

(4) The Department may issue a probationary license to a licensee holding an operating license for up to six months. The probationary license may be issued if the Department determines that:

(a) A license is unable to comply with all licensure requirements and standards or has had a history of non compliance.

(b) The effect of non compliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff and

(c) The licensee has a written plan of correction that has been approved by the Department.

(5) Operating licenses issued under sections 71-1908 to 71-1917 shall remain in full force and effect subject to annual inspections and maintenance of complaint tracking. The department may amend a license upon change of ownership or location. Amending a license requires a site inspection by the Department at the time of amendment except for amendment of a Family Child Care Home License I for which an inspection shall occur within sixty days. When a program is to be permanently closed, the licensee shall return the license to the department within one week after the closing.

(6) There shall be a twenty-five dollar fee charged for the issuance of each license for providers with a licensing capacity of less than thirty children and a fifty dollar fee charged for the issuance of each license for providers with a licensing capacity of thirty or more children. An annual license fee of twenty-five dollars shall be paid by providers with a licensing capacity of less than thirty children and an annual license fee of fifty dollars shall be paid by providers with a licensing capacity of thirty or more children. The license fee shall be paid to the Department which shall retain the fee, except that when a city, village, or county has adopted any rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the Department shall transmit the fees paid by such provider to the city, village, or county conducting the inspections.

(7) A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the Department. A person who has had a license suspended or revoked pursuant to section 71-1915 shall not be eligible to reapply for a license for a period of two years.

(8) A license shall be denied or revoked if an applicant or licensee has been found guilty of a crime involving the neglect, physical abuse, or sexual abuse of a child or an adult.

71-1911.01. Display of License. The provisional, probationary, or operating license issued pursuant to section 71-1911 shall be displayed by the licensee in a prominent place so that it is clearly visible to parents and others.

71-1912. Department; Establish Standards; Investigation; Inspection.

(1) Except as provided in section 71-1910 the Department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance of a license, the Department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the Department. The Department may investigate the character of prospective or existing licensees, any member of the licensee's household, and the staff and employees of programs by making a national criminal history record information check. The Department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

All inspections by the Department shall be unannounced except for initial licensing visits and consultation visits. Initial Licensing visits are announced visits necessary for a provisional license to be issued to a family child care home II, child care center, or preschool program. Consultation visits are announced visits made at the request of a provider for the purpose of consulting with a Department specialist on ways of improving the program.

An unannounced inspection of any place where a program is operating shall be conducted by the Department or the city, village, or county pursuant to subection (2) of section 71-1914 at least annually for a program with a licensing capacity of less than thirty children and at least twice every year for a program with a licensing capacity of more than thirty children.

Whenever an inspection is made, the findings shall be recorded in a report designated by the Department. The public shall have access to the results of these inspections upon a written or oral request to the Department. The request must include the name and address of the program. Additional unannounced inspections shall be performed as often as is necessary for the efficient and effective enforcement of sections 71-1908 to 71-1917.

(2) The rules and regulations adopted and promulgated pursuant to subsection (1) of this section shall contain provisions which encourage the involvement of parents in child care for their children and insure the availability, accessibility, and high quality of services for children in family child care homes. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the Department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation.

71-1913. Fire and Health Inspections.

(1) The Department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502 and may request the Department of Health and Human Services Regulation and Licensure to conduct sanitation and physical well-being standards investigations pursuant to subsection (2) of this section. The State Fire Marshal or the Director of Regulation and Licensure shall immediately notify the Department of Health and Human Services whenever he or she delegates authority for such inspections.

(2) The Department of Health and Human Services Regulation and Licensure shall make an investigation within thrity days after receipt of request from the Department of Health and Human Services of all facilities and programs of licensed providers oc child care programs as defined in section 71-1910 or applicants for licenses to provide such programs to determine if the place or placces to be covered by such licenses meet standards of sanitation and physical well-being set by the Dpartment of Health and Human Services for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health and Human Services Regulation and Licensure may delegate this authority to qualified local environmental health personnel.

71-1913.01. Immunization Requirements; Record; Report.

(1) Each program shall require the parents or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter:

(a) Proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and hemophilus influenza type B and such other diseases as the Department of Health and Human Services may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian. Such record certification, or statement shall be kept by the program as part of the child's file, shall be available to the Department of Health and Human Services, and shall be filed with the Department of Health and Human Services Regulation and Licensure review and inspection. Each program shall report to the Department of Health and Human Services Regulation and Licensure by November of each year the status of immunization for children enrolled as of September 30 of that year.

71-1913.02. Immunization Reports; Audit, Deficiencies; Departments; Duties.

(1) The Department of Health and Human Services Regulation and Licensure shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the Department of Health and Human Services.

(2) If the Department of Health and Human Services Regulation and Licensure discovers noncompliance with section 71-1913.01, the Department of Health and Human Services Regulation and Licensure shall allow a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health and Human Services Regulation and Licensure shall notify the Department of Health and Human Services in writing within five working days. The Department of Health and Human Services shall notify the Department of Health and Human Services Regulation and Licensure of any action taken as a result of such report of any failure to correct deficiencies.

(3) The Department of Health and Human Services Regulation and Licensure shall develop and provide educational and other materials to programs and the public may be necessary to implement section 71-1913.02.

71-1913.03. Immunization; Department; Adopt Rules and Regulations. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner and frequency of reporting of each child's immunization status. The Department of Health and Human Services Regulation and Licensure shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

71-1914. Department; Serve as Coordinating Agency; Local Rules and Regulations; Report of Violation.

(1) The Department shall be the state's coordinating agency for regulating programs in this state in order to:

(a) provide efficient services pursuant to sections 71-1908 to 71-1917,

(b) avoid duplication of services, and

(c) prevent an unnecessary number of inspections of any program. The Department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of any agency's cooperation may be included in the report to the Legislature pursuant to section 71-1917.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for providers of programs whether or not such providers are subject to licensure under section 71-1911. If a city, village, or county adopts any rules, regulations, or ordinances establishing physical well-being and safety standards for providers subject to licensure under section 71-1911

(a) such rules, regulations, or ordinances shall be identical to the Department's rules and regulations for licensed providers pursuant to sections 71-1908 to 71-1917, except that a city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs, and
(b) the city, village, or county and the department shall coordinate the inspection and supervision of licensed providers to avoid duplication of inspections. A city, village, or county shall report any violation of its rules, regulations, or ordinances regulating providers subject to licensure to the director who may cause a written charge to be brought pursuant to section 71-1915. The city, village, or county may administer and enforce its rules, regulations, and ordinances establishing physical well-being and safety standards for providers of programs, except that the exclusive remedy for the violation of any rules, regulations, and ordinances regulating providers subject to licensure pursuant to section 71-1911 shall be by the director pursuant to section 71-1915.

71-1914.01 Unlicensed Child Care; Investigation. When the Department receives a complaint of allegedly improper unlicensed care, the Department shall investigate the claim and shall go to the premises of the allged unlicensed program to ascertain if child caare is being provided there which must be licensed according to sections 71-1908 to 71-1911. If unlicensed child care is occurring in violation of such sections, the individual providing the unlicensed care shall have thirty days to either become licensed or cease providing unlicensed child care. The department shall visit the program again after such thirty-day period. If the individual has not initiated action to become licensed or ceased providing unlicensed child care, the department may involve law enforcement and may proceed under 71-1914.02 and 71-1914.03.

71-1914.02. Unlicensed Child Care; Restraining Order or Injunction; Department; Powers. The Department may apply for a restraining order or a temporary or permanent injunction against any person violating sections 71-1908 to 71-1911 by providing unlicensed child care when a license is required. The district court of the county where the violation is occurring shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted not withstanding the existence of any other remedy at law and shall be granted without bond.

71-1914.03 Unlicensed Child Care; Violations; Penalty; County Attorney; Duties.

(1) Any person violating sections 71-1908 to 71-1911 by providing unlicensed child care when a license is required is guilty of a Class IV misdemeanor. Each day the violation continues shall be a separate offense.

(2) The county attorney of the county in which any provision of unlicensed child care in violation of sections 71-1098 to 71-1911 is occurring shall, when notified of such violation by the Department or a law enforcement agency, cause appropriate proceedings under subsection (1) of this section to be instituted and pursued in a court of competent jurisdiction.

71-1915. Violation; Charges; Content; Notice; Hearing; Penalty; Emergency Powers; Injunction.

(1) Whenever the director has reason to believe that a violation of any provision of sections 71-1908 to 71-1914 or of any rule, regulation, or order of the Department has occurred, he or she may cause a written charge to be served upon each alleged violator. The charge shall specify the provision of sections 71-1908 to 71-1914 or the rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation of such section, rule, regulation, or order. The provisional or probationary license of a person may be suspended or revoked if periodic review or inspection by the Department indicates that insufficient progress has been made toward compliance. The director shall provide for notice and, if requested by the alleged violator, a full and fair hearing at which each alleged violator shall answer the charges. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The alleged violator may request a hearing within ten days after delivery of the notice. Following the hearing, if held, or within fifteen days after delivery of the notice if no hearing is held, the director shall determine whether the charges are true or not, and if true, the director may:

(a) issue a declaratory order finding the charges to be true,

(b) revoke or suspend the provisional, probationary or operating license,

(c) issue a probationary license if the determinations of subsection (4) of section 71-1911 are applicable, or

(d) impose a civil penalty of five dollars for each child in the program for each day in violation after the Department issues its order finding a violation.

If the Department has initiated a license suspension or revocation, (i) such action may continue to finality even if the license of the licensee has been surrendered and (ii) household members of the licensee or current staff members of such licensee shall not become the licensee of the program while such action is pending.

(2) Any civil penalty assessed and unpaid under subsection (1) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.

(3) Whenever the director finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in a program, the director may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (1) of this section, such order shall be effective immediately. Any person to whom the order is directed shall comply immediately, except that upon application to the director, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the director shall continue to enforce his or her order or revoke or modify it.

(4) In addition to the powers provided to the director in this section, he or she may petition the appropriate district court for an injunction whenever he or she believes that any person is violating any provision of sections 71-1908 to 71-1917 or any rule, regulation, or order adopted and promulgated pursuant to such sections. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with such sections, rules, regulations, and orders.

71-1916. Department; Administrative Procedures. The department shall adopt and promulgate such rules and regulations, consistent with sections 71-1908 to 1915, as it shall deem necessary for (1) the proper care and protection of children by providers under such sections, (2) the issuance, suspension, and revocation of licenses for program providers, and (3) the proper administration of such sections. Hearings conducted by the Department pursuant to section 71-1915 and any other contested cases of the Department shall be in accordance with the Administrative Procedures Act. An appeal may be taken from the decision of the Department. The appeal shall be in accordance with the Act.

71-1917. Annual Report; Contents. The annual report required under subdivision (11) of section 43-2615 shall include:

(1) The number of license applications received under sections 71-1908 to 71-1917;

(2) The number of licenses issued under such sections;

(3) The number of license applications denied under such sections;

(4) The number of complaints investigated under such sections;

(5) The number of licenses revoked under such sections;

(6) The number and dollar amount of civil penalties levied pursuant to section 71-1915; and

(7) Information which may assist the Legislature in determining the extent of cooperation provided to the Department by other state and local agencies pursuant to section 71-1914.

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